
UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

Kenneth Clark, *et al.*,

Plaintiffs,

versus

U.S. Bank National Association,

Defendant.

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Civil Action H-11-3886

Opinion on Dismissal

1. In April of 2005, Kenneth and Lidia Clark bought a home at 10934 South Country Club Green Drive, Tomball, Texas 77375. In 2009 they stopped paying the mortgage.
2. In October of 2011, they sued U.S. Bank, NA, for breach of contract, declaratory judgment that the foreclosure sale is void, negligence, wrongful foreclosure, and slander of title.
3. Their claim for breach of contract will be dismissed. They have no facts to support their allegation; the sole contract was their unconditional promise to pay the bank. They do not offer another contract or explain how the bank breached its obligations.
4. Their claim for negligence will be dismissed. They do not explain what duty the bank owed them or how it breached this duty. The bank has no duty to modify the mortgage. The Clarks breached their promise to pay and the bank had the right to foreclose on the property.
5. They say that the bank foreclosed on their home wrongfully but do not describe the defect. Their reciting the elements of wrongful foreclosure does not create a fact. Their claim of wrongful foreclosure will be dismissed.

6. They offer nothing to support their claim for slander of title. They have no interest in the property. Their claim will be dismissed.
7. The Clarks claim injury by the bank. They have no damages. They lived in the bank's house for more than a year without paying rent, insurance, or property taxes.
8. The Clarks bought a home with money they borrowed and promised to re-pay. They did not honor their promise. They have raised the cost of borrowing for everyone else by suing the bank for claims without merit. Their claims will be dismissed.

Signed on May 9, 2012, at Houston, Texas.

A handwritten signature in black ink, appearing to read 'Lynn N. Hughes', written over a horizontal line.

Lynn N. Hughes
United States District Judge